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E & R AMENDMENTS TO LB 478

1           1.     Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           "Section 1.   Section 77-2716, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           77-2716.     (1) The following adjustments to federal  
6 adjusted gross income or, for corporations and fiduciaries, federal  
7 taxable income shall be made for interest or dividends received:

8           (a) There shall be subtracted interest or dividends  
9 received by the owner of obligations of the United States and its  
10 territories and possessions or of any authority, commission, or  
11 instrumentality of the United States to the extent includable in  
12 gross income for federal income tax purposes but exempt from state  
13 income taxes under the laws of the United States;

14           (b) There shall be subtracted that portion of the total  
15 dividends and other income received from a regulated investment  
16 company which is attributable to obligations described in  
17 subdivision (a) of this subsection as reported to the recipient by  
18 the regulated investment company;

19           (c) There shall be added interest or dividends received  
20 by the owner of obligations of the District of Columbia, other  
21 states of the United States, or their political subdivisions,  
22 authorities, commissions, or instrumentalities to the extent  
23 excluded in the computation of gross income for federal income tax  
24 purposes except that such interest or dividends shall not be added

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1 if received by a corporation which is a regulated investment  
2 company;

3 (d) There shall be added that portion of the total  
4 dividends and other income received from a regulated investment  
5 company which is attributable to obligations described in  
6 subdivision (c) of this subsection and excluded for federal income  
7 tax purposes as reported to the recipient by the regulated  
8 investment company; and

9 (e) (i) Any amount subtracted under this subsection shall  
10 be reduced by any interest on indebtedness incurred to carry the  
11 obligations or securities described in this subsection or the  
12 investment in the regulated investment company and by any expenses  
13 incurred in the production of interest or dividend income described  
14 in this subsection to the extent that such expenses, including  
15 amortizable bond premiums, are deductible in determining federal  
16 taxable income.

17 (ii) Any amount added under this subsection shall be  
18 reduced by any expenses incurred in the production of such income  
19 to the extent disallowed in the computation of federal taxable  
20 income.

21 (2) There shall be allowed a net operating loss derived  
22 from or connected with Nebraska sources computed under rules and  
23 regulations adopted and promulgated by the Tax Commissioner  
24 consistent, to the extent possible under the Nebraska Revenue Act  
25 of 1967, with the laws of the United States. For a resident  
26 individual, estate, or trust, the net operating loss computed on  
27 the federal income tax return shall be adjusted by the

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1 modifications contained in this section. For a nonresident  
2 individual, estate, or trust or for a partial-year resident  
3 individual, the net operating loss computed on the federal return  
4 shall be adjusted by the modifications contained in this section  
5 and any carryovers or carrybacks shall be limited to the portion of  
6 the loss derived from or connected with Nebraska sources.

7 (3) There shall be subtracted from federal adjusted gross  
8 income for all taxable years beginning on or after January 1, 1987,  
9 the amount of any state income tax refund to the extent such refund  
10 was deducted under the Internal Revenue Code, was not allowed in  
11 the computation of the tax due under the Nebraska Revenue Act of  
12 1967, and is included in federal adjusted gross income.

13 (4) Federal adjusted gross income, or, for a fiduciary,  
14 federal taxable income shall be modified to exclude the portion of  
15 the income or loss received from a small business corporation with  
16 an election in effect under subchapter S of the Internal Revenue  
17 Code or from a limited liability company organized pursuant to the  
18 Limited Liability Company Act that is not derived from or connected  
19 with Nebraska sources as determined in section 77-2734.01.

20 (5) There shall be subtracted from federal adjusted gross  
21 income or, for corporations and fiduciaries, federal taxable income  
22 dividends received or deemed to be received from corporations which  
23 are not subject to the Internal Revenue Code.

24 (6) There shall be subtracted from federal taxable income  
25 a portion of the income earned by a corporation subject to the  
26 Internal Revenue Code of 1986 that is actually taxed by a foreign  
27 country or one of its political subdivisions at a rate in excess of

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1 the maximum federal tax rate for corporations. The taxpayer may  
2 make the computation for each foreign country or for groups of  
3 foreign countries. The portion of the taxes that may be deducted  
4 shall be computed in the following manner:

5 (a) The amount of federal taxable income from operations  
6 within a foreign taxing jurisdiction shall be reduced by the amount  
7 of taxes actually paid to the foreign jurisdiction that are not  
8 deductible solely because the foreign tax credit was elected on the  
9 federal income tax return;

10 (b) The amount of after-tax income shall be divided by  
11 one minus the maximum tax rate for corporations in the Internal  
12 Revenue Code; and

13 (c) The result of the calculation in subdivision (b) of  
14 this subsection shall be subtracted from the amount of federal  
15 taxable income used in subdivision (a) of this subsection. The  
16 result of such calculation, if greater than zero, shall be  
17 subtracted from federal taxable income.

18 (7) Federal adjusted gross income shall be modified to  
19 exclude any amount repaid by the taxpayer for which a reduction in  
20 federal tax is allowed under section 1341(a)(5) of the Internal  
21 Revenue Code.

22 (8)(a) There shall be subtracted from federal adjusted  
23 gross income an amount equal to the difference between the amount  
24 qualified for calculation of a deduction as provided in section  
25 162(1) of the Internal Revenue Code and the amount actually allowed  
26 pursuant to section 162(1)(1) of the Internal Revenue Code.

27 (b) For an individual who itemized deductions on his or

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1 her federal return, the maximum amount subtracted under subdivision  
2 (8)(a) of this section shall be seven and one-half percent of  
3 federal adjusted gross income.

4 (9)(a) Federal adjusted gross income or, for corporations  
5 and fiduciaries, federal taxable income shall be reduced, to the  
6 extent included, by income from interest, earnings, and state  
7 contributions received from the Nebraska educational savings plan  
8 trust created in sections 85-1801 to 85-1814.

9 (b) Federal adjusted gross income or, for corporations  
10 and fiduciaries, federal taxable income shall be reduced, to the  
11 extent not deducted for federal income tax purposes, by the amount  
12 of any gift, grant, or donation made to the Nebraska educational  
13 savings plan trust for deposit in the endowment fund of the trust.

14 (c) Federal adjusted gross income or, for corporations  
15 and fiduciaries, federal taxable income shall be reduced by any  
16 contributions as a participant in the Nebraska educational savings  
17 plan trust, not to exceed five hundred dollars per married filing  
18 separate return or one thousand dollars for any other return.

19 (d) Federal adjusted gross income or, for corporations  
20 and fiduciaries, federal taxable income shall be increased by the  
21 amount resulting from the cancellation of a participation agreement  
22 refunded to the taxpayer as a participant in the Nebraska  
23 educational savings plan trust to the extent previously deducted as  
24 a contribution to the trust.

25 (10)(a) For income tax returns filed after September 10,  
26 2001, federal adjusted gross income or, for corporations and  
27 fiduciaries, federal taxable income shall be increased by

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1 eighty-five percent of any amount of any federal bonus depreciation  
2 received under the federal Job Creation and Worker Assistance Act  
3 of 2002 or the federal Jobs and Growth Tax Act of 2003, under  
4 section 168(k) or section 1400L of the Internal Revenue Code of  
5 1986, as amended, for assets placed in service after September 10,  
6 2001, and before December 31, 2005.

7 (b) For a partnership, limited liability company,  
8 cooperative, including any cooperative exempt from income taxes  
9 under section 521 of the Internal Revenue Code of 1986, as amended,  
10 subchapter S corporation, or joint venture, the increase shall be  
11 distributed to the partners, members, shareholders, patrons, or  
12 beneficiaries in the same manner as income is distributed for use  
13 against their income tax liabilities.

14 (c) For a corporation with a unitary business having  
15 activity both inside and outside the state, the increase shall be  
16 apportioned to Nebraska in the same manner as income is apportioned  
17 to the state by section 77-2734.05.

18 (d) The amount of bonus depreciation added to federal  
19 adjusted gross income or, for corporations and fiduciaries, federal  
20 taxable income by this subsection shall be subtracted in a later  
21 taxable year. Twenty percent of the total amount of bonus  
22 depreciation added back by this subsection for tax years beginning  
23 or deemed to begin before January 1, 2003, under the Internal  
24 Revenue Code of 1986, as amended, may be subtracted in the first  
25 taxable year beginning or deemed to begin on or after January 1,  
26 2005, under the Internal Revenue Code of 1986, as amended, and  
27 twenty percent in each of the next four following taxable years.

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1 Twenty percent of the total amount of bonus depreciation added back  
2 by this subsection for tax years beginning or deemed to begin on or  
3 after January 1, 2003, may be subtracted in the first taxable year  
4 beginning or deemed to begin on or after January 1, 2006, under the  
5 Internal Revenue Code of 1986, as amended, and twenty percent in  
6 each of the next four following taxable years.

7 (11) For taxable years beginning or deemed to begin on or  
8 after January 1, 2003, under the Internal Revenue Code of 1986, as  
9 amended, federal adjusted gross income or, for corporations and  
10 fiduciaries, federal taxable income shall be increased by the  
11 amount of any capital investment that is expensed under section 179  
12 of the Internal Revenue Code of 1986, as amended, that is in excess  
13 of twenty-five thousand dollars that is allowed under the federal  
14 Jobs and Growth Tax Act of 2003. Twenty percent of the total  
15 amount of expensing added back by this subsection for tax years  
16 beginning or deemed to begin on or after January 1, 2003, may be  
17 subtracted in the first taxable year beginning or deemed to begin  
18 on or after January 1, 2006, under the Internal Revenue Code of  
19 1986, as amended, and twenty percent in each of the next four  
20 following tax years.

21 (12) For taxable years beginning or deemed to begin on or  
22 after January 1, 2005, under the Internal Revenue Code of 1986, as  
23 amended, federal adjusted gross income shall be modified to exclude  
24 the amount of income received as a military retirement benefit  
25 resulting from service in the armed forces of the United States  
26 equal to one-half the amount of income earned as wages and salaries  
27 paid in Nebraska by an employer performing security classified work

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1 for the federal Department of Defense and qualified under 32 C.F.R.  
2 155.1 through 155.6, to the extent that such wages and salaries  
3 exceed forty thousand dollars during the tax year. In order to  
4 receive the exclusion provided in this subsection, the taxpayer  
5 shall submit a certification, signed by the employer's facility  
6 security officer, that the employer has received authorization to  
7 perform classified work for the federal Department of Defense.

8           Sec. 2.   Original section 77-2716, Reissue Revised  
9 Statutes of Nebraska, is repealed.".

10           2. On page 1, line 2, after "exclude" insert "certain".